

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DAMON JOHNSON,
Plaintiff,

vs.

HENDERSON, et al.,
Defendants.

Case No. 1:16-cv-1020
Black, J.
Litkovitz, M.J.

ORDER

Plaintiff, an inmate at the Southern Ohio Correctional Facility (“SOCF”) proceeding pro se, brings this prisoner civil rights action under 42 U.S.C. § 1983 alleging violations of his constitutional rights by defendants. This matter is before the Court on plaintiff’s motion to compel (Doc. 12), and defendants’ response in opposition (Doc. 13).

In the motion to compel, plaintiff asserts that he has sought production from defendants of “all personnel records of the defendants pertaining to complaints for failure to protect, retaliation, and excessive use of force.” (Doc. 12 at 1). Plaintiff asserts he submitted a written request for the personnel records, pursuant to Fed. R. Civ. P. 34, but defendants objected and failed to produce them. (*Id.* at 1).

Pursuant to Fed. R. Civ. P. 37, motions to compel discovery must include a certification that extrajudicial attempts have been made to secure responses to discovery requests. Fed. R. Civ. P. 37(a)(1) provides: “On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery.” Such a motion “*must* include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.” *Id.* (emphasis added). Similarly, S.D. Ohio Civ. R. 37.1 provides that motions relating to discovery

“shall not be filed in this Court, under any provision in Fed. R. Civ. P. 26 or 37 unless counsel have first exhausted among themselves all extrajudicial means for resolving the differences. . . .”

Plaintiff’s motion fails to include the required certification that he conferred or attempted to confer with defendants about the instant discovery dispute prior to filing his motion to compel with the Court. Fed. R. Civ. P. 37(a)(1); S.D. Ohio Civ. R. 37.1. Accordingly, the motion to compel (Doc. 12) is **DENIED**.

IT IS SO ORDERED.

Date: 6/9/17


Karen L. Litkovitz
United States Magistrate Judge